

2

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

RECEIVED

MAR 27 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

DOCKET FILE COPY ORIGINAL

In the Matter of

***Computer II* Further Remand
Proceedings: Bell Operating Company
Provision of Enhanced Services**

**1998 Biennial Regulatory Review --
Review of *Computer III* and ONA
Safeguards and Requirements**

CC Docket No. 95-20

CC Docket No. 98-10

COMMENTS OF COMPUSERVE NETWORK SERVICES

**Randolph J. May
SUTHERLAND, ASBILL & BRENNAN
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2404
(202) 383-0100**

March 27, 1998

Its Attorneys

**CompuServe Network Services
CC Docket Nos. 95-20, 98-10
BOC Safeguards Proceeding
Initial Comments - March 27, 1998**

TABLE OF CONTENTS

SUMMARY	ii
I. BACKGROUND	2
II. DISCUSSION	6
A. The Commission Should Require The BOCs To Provide IntraLATA Information Services Through A Separate Affiliate	6
B. The Commission Should Conclude That The 1996 Act's Definition of "Telecommunications Service" Is Equivalent To The Commission's Pre-Existing Definition of "Basic Service"	12
III. CONCLUSION	15

SUMMARY

CompuServe Network Services, a wholly-owned subsidiary of WorldCom, Inc., is a leading provider of enhanced data services to over 1100 corporate customers. It continues to rely heavily on the Bell Operating Companies ("BOCs") for local exchange services it uses to reach its customers and, as the BOCs now provide information services, CompuServe competes against them in the information services marketplace.

In light of the fact that the BOCs remain the dominant providers of local exchange and exchange access services, they continue, at least for now, to have the ability and incentive to engage in anticompetitive behavior against non-BOC-affiliated ISPs. Until competition develops further, requiring the BOCs to provide intraLATA information services through a separate affiliate provides the most effective way to guard against anticompetitive practices.

It is obvious the BOCs' market power in the intraLATA market is considerably greater than in the interLATA market, so it seems incongruous to require a separate affiliate for the latter but not the former. The fact that the BOCs already are required by Congress to establish a separate affiliate for interLATA information services and all electronic publishing services alters the cost/benefit analysis undertaken by the Commission in the Computer III proceeding. Assuming that the Commission permits a BOC to provide intraLATA service through the same separate affiliate created for Sections 272 and 274 purposes, any BOC argument concerning the claimed high cost associated with creation of a separate affiliate for intraLATA services would be significantly diminished. Moreover, as a practical matter, because of the nature of ISP calls, where the same call session will almost certainly involve at least some interLATA transmissions, it would seem very difficult, and certainly not very cost-effective, for the BOCs to attempt differentiate between interLATA and intraLATA information services traffic.

CompuServe also urges the Commission to adopt its tentative conclusion that it should equate the 1996 Act's definition of "telecommunications" with its Computer II definition "basic" service. The rationale underlying the equation of "enhanced service" and "information service," which the Commission already has adopted, logically and necessarily should be extended to "telecommunications serve" and "basic service." This action would serve the public interest by maintaining the regulatory stability of the definitional scheme established under the Computer II regime whereby the Commission exempted information services from common carrier regulation and thereby allowed online and Internet services to flourish on an unregulated basis.

**CompuServe Network Services
CC Docket Nos. 95-20, 98-10
BOC Safeguards Proceeding
Initial Comments - March 27, 1998**

I. BACKGROUND

CompuServe Network Services, a wholly-owned subsidiary of WorldCom, Inc., is a leading provider of enhanced data services to over 1100 corporate customers. CompuServe provides these customers with a wide range of productivity-enhancing data services, including point-of-sale financial transactions processing capabilities, wide area intranet and internet connectivity, and applications hosting and systems management. CompuServe continues to rely heavily on the Bell Operating Companies for the local exchange services it uses for its customers to reach it. And, as the BOCs now provide information services, CompuServe competes against them in the information services marketplace.

Under the Computer II regulatory regime, AT&T was required to provide enhanced services through structurally separate subsidiaries.^{2/} Following the divestiture of AT&T in 1984, the Commission extended the Computer II structural separation requirements to

^{2/} Among other things, the Computer II regime required that AT&T's separate subsidiaries operate independently and at arm's length by: (1) obtaining all transmission facilities necessary for the provision of enhanced services pursuant to tariff; (2) maintaining their own books of account, employing separate officers, utilizing separate operating, marketing, installation, and maintenance personnel, and utilizing separate computer facilities in the provision of enhanced services; (3) developing their own software or contracting with non-affiliated vendors; and (4) reducing to writing any transactions between the separate subsidiaries and AT&T which involved the transfer, either direct or by accounting or other record entries, of money, personnel, resources, other assets, or anything of value. See 47 C.F.R. § 64.702(c).

the BOCs.^{3/} The Commission changed course, however, in the Computer III proceeding^{4/} and allowed BOCs to provide enhanced services pursuant to nonstructural safeguards.^{5/}

^{3/} Policy and Rules Concerning the Furnishing of Customer Premises Equipment, Enhanced Services and Cellular Communications Services by the Bell Operating Companies, 95 F.C.C.2d 1117 (1984) (BOC Separation Order), aff'd sub nom. Illinois Bell Tel. And Tel. Co. v. FCC, 740 F.2d 465 (7th Cir. 1984), aff'd on recon., 49 Fed. Reg. 26,056 (1984) (BOC Separation Reconsideration), aff'd sub nom. North Am. Tel. Ass'n v. FCC, 772 F.2d 1282 (7th Cir. 1985).

^{4/} Amendment of Section 64.702 of the Commission's Rules and Regulations (Computer III), Report and Order, CC Docket No. 85-229, Phase I, 104 F.C.C.2d 958 (1986) (Phase I Order), recon., 2 FCC Rcd 3035 (1987) (Phase I Recon. Order), further recon., 3 FCC Rcd 1135 (1988) (Phase I Further Recon. Order), second further recon., 4 FCC Rcd 5927 (1989) (Phase I Second Further Recon.), Phase I Order and Phase I Recon. Order, vacated, California v. FCC, 905 F.2d 1217 (9th Cir. 1990) (California I); Phase II, 2 FCC Rcd 3072 (1987) (Phase II Order), recon., 3 FCC Rcd 1150 (1988) (Phase II Recon. Order), further recon., 4 FCC Rcd 5927 (1989) (Phase II Further Recon. Order); Phase II Order vacated, California I, 905 F.2d 1217 (9th Cir. 1990); Computer III Remand Proceedings, 5 FCC Rcd 7719 (1990) (ONA Remand Order), recon., 7 FCC Rcd 909 (1992), pets. for review denied, California v. FCC, 4 F.3d 1505 (9th Cir. 1993) (California II); Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards, 6 FCC Rcd 7571 (1991) (BOC Safeguards Order), recon. dismiss in part, Order, CC Docket Nos. 90-623 and 92-256, 11 FCC Rcd 12513 (1996); BOC Safeguards Order vacated in part and remanded, California v. FCC, 39 F.3d 919 (9th Cir. 1994) (California III), cert. denied, 115 S.Ct 1427 (1995).

^{5/} Computer III Phase I Order, 104 F.C.C.2d at 964. The nonstructural safeguards established by the Commission included cost allocation regulations designed to minimize the ability of the BOCs to cross-subsidize their enhanced service operations, and other regulations intended to prevent the BOCs from discriminating against competing providers of enhanced services. The cost allocation regulations consisted primarily of procedures for the allocation of joint and common costs associated with the provision of integrated enhanced services. See Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, 2 FCC Rcd 1298 (1987), recon., 2 FCC Rcd 6283 (1987), further recon., 3 FCC Rcd 6701 (1988), aff'd sub nom. Southwestern Bell Corp v. FCC, 896 F.2d 1378 (D.C. Cir. 1990). The antidiscrimination regulations generally consisted of two components: (1) Comparably Efficient Interconnection ("CEI") arrangements whereby each BOC was required, pending promised more permanent changes, to provide competitors with connections to the local exchange equal to the connections available to the BOCs' own enhanced service operations; and (2) Open Network Architecture ("ONA") whereby each BOC was required to unbundle its basic transmission facilities into individual elements to promote the efficient and innovative use of the local exchange by enhanced service providers. Computer III Phase I Order, 104 F.C.C.2d at 1018-68.

On appeal, the Ninth Circuit vacated and remanded the agency's decision, finding that the record established during the Computer III proceeding did not support the Commission's assertion that abandoning structural separation would not increase the risk of BOC cross-subsidization.^{6/} In response, the Commission made modest changes to its nonstructural regime, revising the cost accounting safeguards, and it reaffirmed its decision to replace structural separation with nonstructural safeguards.^{7/}

After the BOC Safeguards Order, the Commission's nonstructural safeguards regime was reviewed by the Ninth Circuit on two further occasions. In the first instance, even though it affirmed a series of the Commission's ONA decisions,^{8/} the court nevertheless concluded that the Commission had weakened the ONA concept by retreating from its original requirement that the BOCs must fundamentally unbundle their local transmission facilities.^{9/}

Next, in 1994, the Ninth Circuit's decision in California III partially vacated the Commission's BOC Safeguards Order, finding that in granting full structural relief based on the BOC ONA plans, the Commission had not explained adequately the Commission's retreat from a requirement of "fundamental unbundling" of BOC networks.^{10/} Then, the Commission issued the

^{6/} California I, 905 F.2d at 1235.

^{7/} BOC Safeguards Order, 6 FCC Rcd. at 7575-76.

^{8/} California II, 4 F.3d at 1505. The ONA decisions reviewed by the Ninth Circuit in California II were those issued by the FCC after California I. See Filing and Review of Open Network Architecture Plans, 4 FCC Rcd 1 (1988), recon., 5 FCC Rcd 3084 (1990), further order, 5 FCC Rcd 3103 (1990); Computer III Remand Proceedings, 5 FCC Rcd 7719 (1990).

^{9/} Id. at 1512.

^{10/} California III, 39 F.3d at 930.

Computer III Further Remand Notice in February 1995, seeking comment regarding the sufficiency of ONA unbundling as a condition of lifting structural separation, and on the general issue of whether relying on nonstructural safeguards serves the public interest.

Since the California III remand, and the Commission's release of the Computer III Further Remand Notice, the 1996 Act was signed into law. Consequently, the Commission now proposes to reassess the safeguards under which the BOCs may provide information services. This action is in part a response to the remand of the Computer III decision from the Ninth Circuit, and in part a piece of the Commission's biennial review of its rules. The proposals are designed to harmonize the Commission's existing safeguards regime established in the Computer III proceeding with the requirements of the Telecommunications Act of 1996.

The Commission seeks comment on its tentative conclusion that, notwithstanding the 1996 Act's separate affiliate requirement for BOC provision of interLATA information services, it should continue to apply the nonstructural safeguards regime to BOC provision of intraLATA information services. It seeks comment on whether allowing BOCs to offer intraLATA information services subject to nonstructural safeguards strikes an appropriate balance between the need to protect competing ISPs against the potential for anticompetitive behavior by BOCs and the claimed need to provide incentives to BOCs to entice them to offer information services.

The Commission also seeks comment on whether its definition of the term "basic service," and the 1996 Act's definition of "telecommunications service" should be interpreted to extend to the same functions. The Commission concluded in its Non-Accounting Safeguards

Order,^{11/} that although the text of the Commission's definition of "enhanced services" differs from the 1996 Act's definition of "information service," the two terms should be interpreted to extend to the same functions. The Commission now seeks comment on whether it should treat the terms "basic service" and "telecommunications service" as equivalent. The Commission also seeks comment on whether it should hereafter conform its terminology to that used in the 1996 Act, so that its rules, which previously distinguished between "basic" and "enhanced" services, should now distinguish between "telecommunications" and "information" services.

II. DISCUSSION

A. The Commission Should Require The BOCs To Provide IntraLATA Information Services Through A Separate Affiliate

CompuServe disagrees with the Commission's tentative conclusion that, notwithstanding the 1996 Act's separate affiliate requirements for BOC provision of interLATA information services, it should not require that BOCs also provide intraLATA information services through separate affiliates. Allowing the BOCs to offer intraLATA information services subject only to nonstructural safeguards does not provide non-BOC-affiliated ISPs with adequate protection against anticompetitive behavior by the BOCs.

The Commission acknowledges in the FNPRM that despite the passage of the 1996 Act, the BOCs remain the dominant providers of local exchange and exchange access services in their in-region states, and thus they continue to have the ability and incentive to

^{11/} Implementation of Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, First Report & Order & Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905, at para. 102 (rel. Dec. 24, 1996) (Non-Accounting Safeguards Order).

engage in anticompetitive behavior against independent ISPs.^{12/} And, while it is true, as the FNPRM points out, that competition should, over time, decrease the need for stringent regulation of BOCs to ensure against access discrimination or cost misallocation, such a time has not come. CompuServe has shown in the past that the nonstructural safeguards established by the Commission during the Computer III proceeding are inadequate, without more, to protect the BOCs' enhanced services competitors and their local exchange customers.^{13/} Until competition develops further, requiring the BOCs to provide intraLATA information services through a separate affiliate provides the only effective way to guard against anticompetitive practices.

There are a number of reasons why structural separation is superior to nonstructural safeguards.^{14/} First, by separating the BOCs' regulated local exchange activities from their unregulated enhanced service operations, structural separation eliminates many joint and common costs. As a result, it minimizes the need for difficult and arbitrary cost allocations and, thereby, reduces the opportunity for cross-subsidization. One of the problems with relying on cost allocations, apart from the potential for abuse inherent in the arbitrariness of the process, is that even when problems in accounting are uncovered, it is almost always much later, after anticompetitive injury has occurred. For example, at the direction of the Commission, the National Exchange Carrier Association hired Ernst and Young to conduct audits of BOC-reported adjustments to the Common Line revenue pool for 1988 and the first quarter of 1989. In

^{12/} FNPRM at para. 51.

^{13/} See CompuServe Comments in Computer III Further Remand Proceedings, filed April 7, 1995, 19-20

^{14/} Id. at 20.

seven decisions issued six years later,^{15/} the Commission found numerous accounting irregularities and apparent violations of its accounting and reporting requirements. These apparent violations, among other things, involved the Commission's jurisdictional separations regulations, misclassifications of revenue, widespread documentation problems, and clerical errors. In the aggregate, the Commission concluded that the BOCs' apparent violations benefited them to the detriment of their customers.^{16/}

Another recent example illustrates the difficulty in relying on accounting mechanisms as a means of ensuring accurate and reliable cost assignments. In an order issued just over a week ago, the Commission released information obtained from a joint FCC/state commission audit of GTE operations.^{17/} The joint audit examined GTE's property records and concluded that GTE could not verify or physically locate more than 30% of its assets in the eight states surveyed. While the problems the audit team encountered in verifying the existence of assets on the books is not to say that the assets do not actually exist, it does illustrate quite vividly the difficulty in relying on such unverifiable records for assigning costs to various unseparated business sectors. Again, it is worth noting the delay inherent in relying on very

^{15/} See The Ameritech Operating Companies, FCC 95-72 (released March 3, 1995) ("Ameritech Audit"); The Bell Atlantic Telephone Operating Companies, FCC 95-73 (released March 3, 1995) ("Bell Atlantic Audit"); The BellSouth Telephone Operating Companies, FCC 95-74 (released March 3, 1995); The NYNEX Telephone Operating Companies, FCC 95-75 (released March 3, 1995) ("NYNEX Audit"); Pacific Bell, FCC 95-76 (released March 3, 1995); Southwestern Bell Telephone Company, FCC 95-77 (released March 3, 1995) ("Southwestern Bell Audit"); US West Communications, Inc., FCC 95-78 (released March 3, 1995) ("US West Audit").

^{16/} See e.g., US West Audit, FCC-95-78 at 4.

^{17/} GTE Telephone Operating Companies, AAD 98-26, released March 18, 1998.

complex and time-consuming audits to monitor compliance with cost accounting requirements. In the GTE case focusing only on the verification of the accuracy of property records, the audit began in 1995. Structural separation, with the separate entities keeping their own books for their own property, at least minimizes the risks that these accounting problems will lead to cross-subsidization of the BOCs' competitive activities.

Structural separation also deals much more effectively with the BOCs' ability to manipulate the availability, installation, maintenance, repair, and quality of their basic transmission facilities. By requiring the BOCs' separate subsidiaries to utilize basic transmission facilities on the same basis as their enhanced service competitors, structural separation not only helps ensure nondiscriminatory access to the BOCs' basic transmission facilities, but it also promotes cost-based pricing. Moreover, structural separation addresses the "human factor" by making it easier for BOC employees working on matters related to regulated local exchange activities to deal with employees of their separate subsidiaries on an arm's length basis.

Structural separation also helps protect BOC competitors and customers with a minimum of Commission involvement because it does not require that the Commission actively and regularly monitor the BOCs' information service subsidiaries. As the Commission observed in the BOC Separation Reconsideration Order: Structural separation reduces the common transactions between providers of basic services and affiliated providers of competitive offerings, and highlights transactions, such as the flow of funds, transfers of information, and the procedures for accomplishing interconnection by affiliated vendors.^{18/} The advantages of

^{18/} BOC Separation Reconsideration Order, 49 Fed. Reg. at 26,059.

structural separation were recognized in the 1996 Act which conditions the BOCs' entry into the interLATA information services market on their compliance with the separate affiliate, accounting, and nondiscrimination requirements set forth in Section 272.^{19/} The Commission has explained in its Non-Accounting Safeguards Order that these safeguards are designed to prohibit anticompetitive discrimination and improper cost allocation while still permitting the BOCs to enter certain markets, in the absence of effective competition in the local exchange marketplace.^{20/}

The Commission should now require the BOCs to provide intraLATA information services through a separate affiliate. Until more effective competition materializes in the intraLATA services market, structural separation safeguards are necessary to ensure against access discrimination or cost misallocation. In fact, it is obvious that the BOCs' market power in the *intra*LATA market is considerably greater than that in the *inter*LATA market, so it seems incongruous to require a separate affiliate for the latter but not the former.^{21/}

In addition, the Commission recognizes the fact that BOCs *already* are required by Congress to establish a separate affiliate for interLATA information services and all electronic publishing services alters the cost/benefit analysis undertaken by the Commission in the Computer III proceeding.^{22/} Prior to the 1996 Act, the Commission based its argument against

^{19/} 47 U.S.C. § 271.

^{20/} Non-Accounting Safeguards Order, 11 FCC Rcd at 21911.

^{21/} The Commission reports that the BOCs currently account for approximately 99.1 percent of local service revenues in the local market. FNPRM at note 151.

^{22/} FNPRM at para. 55.

structural separation on the claim that the costs of requiring structural separation outweighed the benefits that may have resulted. After passage of the 1996 Act, however, BOCs are required to provide interLATA information services and electronic publishing services through a separate affiliate. Assuming that the Commission permits a BOC to provide intraLATA service through the same separate affiliate already created for Sections 272 and 274 purposes, to which CompuServe does not object if such affiliate meets the Section 272 separation requirements, any argument concerning the high cost associated with structural separation for intraLATA service would be significantly diminished. In effect, if both interLATA and intraLATA services were to be offered through the same separate affiliate, the costs of structural separation previously surmised by the Commission would not now be nearly as substantial.

Moreover, as a practical matter, because of the nature of ISP calls where the same call session almost always involves at least some interLATA transmissions, it would seem very difficult, and certainly not cost-effective, for the BOCs to differentiate between interLATA and intraLATA information services traffic. Requiring the BOCs to provide intraLATA calls through a separate affiliate would eliminate the need to distinguish between intraLATA and interLATA information services. In light of the practical difficulties in separating intraLATA and interLATA information services traffic, allowing intraLATA calls to continue to be provided outside of a separate affiliate context necessarily would provide the BOCs with an incentive to evade the separate affiliate requirement altogether.

B. The Commission Should Conclude That The 1996 Act's Definition of "Telecommunications Service" Is Equivalent To The Commission's Pre-Existing Definition of "Basic Service"

Consistent with the Commission's conclusion in the Non-Accounting Safeguards Order that "enhanced services" are essentially equivalent to the statutory definition of "information services," the Commission's definition of "basic service" and the 1996 Act's definition of "telecommunications service" should be interpreted to extend to the same functions, even if the two definitions differ slightly literally. As the Commission correctly points out, such action is consistent with Congressional intent and would serve the public interest by maintaining the regulatory stability of the definitional scheme under which the Commission exempted certain competitive services from common carriage regulation.

Fundamentally, the 1996 Act does not modify the regulatory framework adopted in the Computer II proceeding in which the Commission established a dichotomy between regulated "basic" communications and unregulated "enhanced" services.^{23/} The Commission stated in its Universal Service Order, that the "definition of enhanced services is substantially similar to the definition of information services."^{24/} The Universal Service Order cites the Non-

^{23/} A basic service is the offering of a "pure transmission capability over a communications path that is virtually transparent in terms of its interaction with customer supplied information." Enhanced services are defined as: "services offered over common carrier transmission facilities which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different or restructured information; or involve subscriber interaction with stored information." Computer II, 77 F.C.C.2d 384, 419-20.

^{24/} Universal Service Order, 12 FCC Rcd 8776, at para. 788. The 1996 Act defines "information service" as: "the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such

Accounting Safeguards Order, in which the Commission had concluded that all services previously considered “enhanced services” are “information services.”^{25/} In the Non-Accounting Safeguards Order, the Commission stated it was preserving the definitional scheme by which information services are exempted from regulation under Title II of the Act to ensure regulatory certainty and continuity.^{26/} The Universal Service Order also emphasized the value of promoting regulatory certainty and continuity by preserving the existing regulatory dichotomy.^{27/}

The Commission correctly points out in the FNPRM that nothing in the 1996 Act indicates that Congress intended to change the long-standing unregulated status of ISPs by altering the Commission’s basic/enhanced service regime described above.^{28/} Indeed, if Congress had intended to make such a dramatic change, surely it would have so indicated in an unmistakable fashion. In fact, Congress included in the 1996 Act a definition of “information services” that is substantially equivalent to the Commission’s definition of enhanced services. Congress, in effect, confirmed the continued viability of, and desirability for, the maintenance of the Commission’s basic/enhanced services regulatory scheme.

capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.” 47 U.S.C. § 153(20).

^{25/} Universal Service Order, 12 FCC Rcd 8776 at para. 788, *citing* Non-Accounting Safeguards Order, 11 FCC Rcd 21905 at para. 102.

^{26/} Id.

^{27/} Id. at para. 788.

^{28/} FNPRM at para. 40.

The rationale underlying the equation of “enhanced service” and “information service” can and logically should be extended to “telecommunications service” and “basic service.” The definition of “telecommunications service” in the 1996 Act is substantially equivalent to the Commission’s definition of “basic service.”^{29/} There is no basis to conclude that, by using the term “telecommunications service,” Congress intended a departure from the Commission’s usage of “basic service.” Therefore, consistent with the rationale underlying the enhanced service/information service equivalency, the Commission should interpret “telecommunications service” as the equivalent of “basic service.” CompuServe agrees with the conclusion in the FNPRM that this action serves the public interest by maintaining the regulatory stability of the definitional scheme established in Computer II under which the Commission exempted information services from common carriage regulation and thereby allowed online and Internet services to flourish on an unregulated basis.^{30/}

Finally, in light of the Commission’s conclusion in the Non-Accounting Safeguards Order that the statutory term “information services” includes all services the Commission previously considered to be “enhanced,” and the appropriate conclusion in this proceeding that the statutory term “telecommunications services” includes all services the Commission previously considered to be “basic services,” the Commission should hereafter

^{29/} The 1996 defines “telecommunications” as: the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received. 47 U.S.C. § 153(43).

^{30/} FNPRM at para. 21.

conform its terminology to that used in the 1996 Act. This action will ensure future clarity and uniformity in the application of the Commission's rules.

III. CONCLUSION

For the foregoing reasons, CompuServe urges the Commission to take actions in this proceeding consistent with the views expressed herein.

Respectfully submitted,

COMPUSERVE NETWORK SERVICES


Randolph J. May

**SUTHERLAND, ASBILL & BRENNAN
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2404
(202) 383-0100**

March 27, 1998

Its Attorneys

CERTIFICATE OF SERVICE

I, Teresa A. Pumphrey, do hereby certify that true and correct copies of the foregoing, "**COMMENTS OF COMPUSERVE NETWORK SERVICES**," were served by hand or first-class U.S. mail, postage prepaid, this 27th day of March, 1998, on the following:

Hon. William Kennard
Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Hon. Harold W. Furchtgott-Roth
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Hon. Gloria Tristani
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

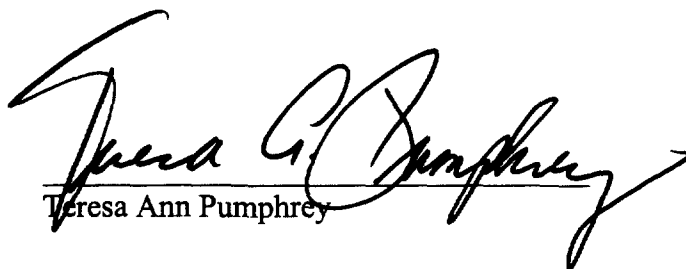
*Janice Myles
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 544
Washington, D.C. 20554

Hon. Susan Ness
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Hon. Michael K. Powell
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

A. Richard Metzger, Jr.
Deputy Bureau Chief
Federal Communications Commission
1919 M Street, N.W. - Room 500
Washington, D.C. 20554

*International Transcription Service
1231 20th Street, N.W.
Washington, D.C. 20037



Teresa Ann Pumphrey

*By Hand